Complaint - 1

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 invasion of privacy arising from intrusion upon seclusion and public disclosure of private facts.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

III. PARTIES

- 3. Plaintiffs, ALMA MEDINA AND TERESA DURGIN ("Plaintiffs"), are natural persons residing in San Diego county in the state of California, and are "consumers" as defined by the FDCPA, 15 U.S.C. § 1692a(3) and are "debtors" as defined by Cal Civ Code 1788.2(h).
- 4. At all relevant times herein, Defendant, GC SERVICES, LP ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiffs which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code § 1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6), and RFDCPA, Cal Civ Code § 1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiffs in an attempt to collect an alleged outstanding

- a. Causing Plaintiff's telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§1692d(5)); Defendant would call Plaintiff on average of two times per day or more every day of the week, has called more than five times a day on multiple occasions, has called more than ten times a week and more than twenty times per month;
- b. Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal Civ Code §1788.11(d)); Defendant would call Plaintiff on average of two times per day or more every day of the week, has called more than five times a day on multiple occasions, has called more than ten times a week and more than twenty times per month, and would continually call even if Plaintiff did not answer;
- c. Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code §1788.11(e)); Defendant would call Plaintiff on average of two times per day or more every day of the week, has called more than five times a day on multiple occasions, has called more than ten times a week and more than twenty times per month;
- d. Failing to notify Plaintiff during each collection contact that the communication was from a debt collector (§1692e(11));
- e. Using unfair or unconscionable means against Plaintiff in connection with an attempt to collect a debt (§1692f));

- g. Threatening that the failure by Plaintiff to pay Plaintiffs consumer debt will result in an accusation that Plaintiff had committed a crime, where such accusation is false (Cal Civ Code §1788.10(b));
- h. Communicating, or threatening to communicate to a third party the fact that Plaintiff has engaged in conduct, other than the failure to pay a consumer debt, which Defendant knew or had reason to know would defame the debtor (Cal Civ Code §1788.10(c));
- i. Threatening Plaintiff that nonpayment of Plaintiffs debt may result in the arrest of Plaintiff or the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of Plaintiff, where such action was not in fact contemplated by the debt collector and permitted by the law (Cal Civ Code §1788.10(e)); Defendant would often use threats and intimate that significant problems would occur if the debt was not paid. Defendant even gave ultimatums as to when the debt would be paid. Defendant would threaten legal action and wage garnishment;
- j. Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§1692d));
- k. In connection with collection of a debt, using or threatening to use violence or other criminal means to harm the physical person, reputation, or property of Plaintiff (§1692d(1)); Defendant would often use threats and intimate that significant problems would occur if the debt

was not paid. Defendant even gave ultimatums as to when the debt would be paid;

- l. In connection with collection of a debt, using obscene or profane language directed at Plaintiff (§1692d(2));
- m. In connection with collection of a debt, using language the natural consequence of which was to abuse Plaintiff (§1692d(2));
- n. Falsely representing that an individual is an attorney (§1692e(3)); and
- o. Falsely representing that any person is an attorney or counselor at law (Cal Civ Code § 1788.13(b)).
- p. Where Defendant had not yet made an attempt to contact Plaintiff's counsel or had not given Plaintiff's counsel sufficient time to respond to the initial attempt to communicate with Plaintiff's counsel, and where Plaintiff's counsel had not given Defendant permission to contact Plaintiff directly, communicating with Plaintiff directly after learning that Plaintiff is being represented by counsel (§ 1692c(a)(2); Plaintiff's counsel sent a representation letter giving notice of representation and of possible lawsuit on February 16, 2010 and continued to call on average of two times per day every day after this date up and until February 22, 2010.
- 6. Defendant's aforementioned violations of the FDCPA and RFDCPA also constitute an intentional intrusion into Plaintiffs' private places and into private matters of Plaintiffs' life, conducted in a manner highly offensive to a

reasonable person. Plaintiffs had a subjective expectation of privacy that was objectively reasonable under the circumstances.

- 7. Defendant's aforementioned disclosure of facts regarding Plaintiffs' debt to third parties constitutes a public disclosure of a private fact not of legitimate public concern. Defendant's disclosures were highly offensive to a reasonable person.
- 8. As a result of the above violations of the FDCPA, RFDCPA and invasion of privacy, Plaintiffs suffered and continue to suffer injury to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiffs for Plaintiffs' actual damages, statutory damages, and costs and attorney's fees.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

9. Plaintiffs reincorporate by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;

- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

COUNT II: VIOLATION OF ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

- 10. Plaintiffs reincorporate by reference all of the preceding paragraphs.
- 11. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION AND INVASION OF PRIVACY BY PUBLICATION OF PRIVATE FACTS

12. Plaintiffs reincorporate by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the Defendant for the following:

A. Actual damages

- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY

Respectfully submitted this 23rd day of March, 2010.

By:

TODD M. FRIEDMAN (216752) LAW OFFICES OF TODD M. FRIEDMAN, P.C.

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Fax: 866 623-0228

tfriedman@attorneysforconsumers.com

Attorney for Plaintiff

SJS 44 (Rev. 12/07)

CR

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings of other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Gourt for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS			DEFENDANTS TUME 25 Div		
ALMA MEDINA AND TERESA DURGIN			GC SERVICES LERK. U.S. DISTRICT COURT County of Residence of First Listed Defendant CALIFER SIL		
(b) County of Residence of First Listed Plaintiff San Diego			County of Residence of	f First Listed Defendant C	COURT
(EXCEPT IN U.S. PLAINTIFF CASES)			BY:	(IN U.S. PLAINTIFF CASE	S ONLY) VIA
	·		LAND II	NVOLVED.	USE THE LOCATION OF THE DEPUTY
(c) Attorney's (Firm Name, Address, and Telephone Number)			Attorneys (If Known)	10CV 065 1	
aw Offices of Todd M.	•	206 4741-		1001 000 1	- JM RBB
	5, Beverly Hills, CA 90211, (877) PICTION (Place an "X" in One Box Only)	III. CI	<u> </u>		S(Place an "X" in One Box for Plaintiff and One Box for Defendant)
1 U.S. Government Plaintiff	■ 3 Federal Question (U.S. Government Not a Party)	ĺ	en of This State		PTF DEF Principal Place
☐ 2 U.S. Government Defendant	 4 Diversity (Indicate Citizenship of Parties in Item 		en of Another State		d Principal Place 5 5 5 n Another State
IV NATURE OF CUI	T (b) (0.00)		en or Subject of a reign Country	3 🗇 3 Foreign Nation	0606
CONTRACT	T (Place an "X" in One Box Only) TORTS	FC	ORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
(Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	Liability 365 Personal Product I Slander I Liability 1340 Marine PERSONAL PI Liability 2345 Marine Product Liability 3750 Motor Vehicle Product Liability 2355 Motor Vehicle Product Liability 2355 Motor Vehicle Product Liability 385 Property 365 Prosonal Product Liability 365 Product Liability 376 Product Liability 377	Injury - 62 62 62 62 63 64 64 64 64 64 64 64	10 Agriculture 12 Other Food & Drug 15 Drug Related Scizure 15 Orug Related Scizure 16 Ciquor Laws 16 R.R. & Truck 16 Liquor Laws 16 R.R. & Truck 17 Ciquor Laws 18 Ciquor Laws 19 Ciquor Laws 19 Ciquor Laws 10 Ciquor Laws 10 Ciquor Laws 10 Ciquor Laws 10 Labor/Mgmt. Relations 10 Labor/Mgmt. Reporting 10 Labor/Mgmt. Reporting 10 Labor/Mgmt. Reporting 10 Ciquor Laws	□ 422 Appeal 28 USC 158 □ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS □ 820 Copyrights □ 830 Patent □ 840 Trademark SOCIAL SECURITY □ 861 HIA (1395ff) □ 862 Black Lung (923) □ 864 SSID Title XVI □ 865 RSI (405(g)) □ FEDERAL TAX SUITS □ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS—Third Party 26 USC 7609	□ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 810 Selective Service □ 850 Securities/Commodities/ Exchange □ 875 Customer Challenge □ 12 USC 3410 ■ 890 Other Statutory Actions □ 891 Agricultural Acts □ 892 Economic Stabilization Act □ 893 Environmental Matters □ 894 Energy Allocation Act □ 900Appeal of Fee Determination Under Equal Access to Justice □ 950 Constitutionality of State Statutes
🖫 1 Original 🗍 2 Re	an "X" in One Box Only) emoved from	Reop	pened anothe	erred from	on Indament
	Cite the U.S. Civil Statute under which	n you are filing (Do not cite jurisdictions	l statutes unless diversity)	
VI. CAUSE OF ACTION	ON Brief description of cause: Violation of the Fair Debt C				
VII. REQUESTED IN COMPLAINT:			EMAND \$	CHECK YES onl	y if demanded in complaint: D: Ø Yes ☐ No
VIII. RELATED CAS IF ANY	E(S) (See instructions): JUDGE			DOCKET NUMBER	
DATE 03/23/2010	SIGNATURE	OF ATTORNEY	OF RECORD		
FOR OFFICE USE ONLY RECEIPT #	MOUNT \$350 - APPLYING	G IFP	JUDGE	MAG. J	UDGE
W	B03.25.10			OF	RIGINAL

JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

- III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity.

 Example:

 U.S. Civil Statute: 47 USC 553
 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Court Name: USDC California Southern

Division: 3

Receipt Number: CAS011541

Cashier ID: mbain

Transaction Date: 03/25/2010 Payer Name: TODD FRIEDMAN

CIVIL FILING FEE

For: MEDINA V GC SERVICES

Case/Party: D-CAS-3-10-CV-000651-001

Amount: \$350.00

CHECK

Check/Money Order Num: 2202

Amt Tendered: \$350.00

Total Due:

\$350.00

Total Tendered: \$350.00

Change Amt:

\$0.00

There will be a fee of \$45.00 charged for any returned check.